

***CALIFORNIA
DEPARTMENT
OF
VETERANS
AFFAIRS***

***DEPENDENTS
FEE WAIVER
PROGRAM***

POLICY MANUAL

July 1, 2011

CALIFORNIA DEPARTMENT OF VETERANS AFFAIRS

DEPENDENTS FEE WAIVER PROGRAM

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CALIFORNIA DEPARTMENT OF VETERANS AFFAIRS

DEPENDENT FEE WAIVER PROGRAM

INTRODUCTION:

The mission of the California Department of Veterans Affairs is to promote and deliver the benefits provided by the grateful State of California to veterans and their families.

One of the benefits the California Department of Veterans Affairs (CDVA) administers is the College Fee Waiver Program for Veterans Dependents.

Originally enacted in 1935, this program has seen many changes through the years. Current benefits are provided under the authority of the Military and Veterans Code, Article 2, Sections 890 through 899 and 980, and the Education Code, Section 66025 through 66025.6.

The basic benefit is the waiver of mandatory systemwide fees at any campus of the University of California (UC), California State University (Cal-State) including the California Maritime Academy, or a California Community College.

Although the basic benefits of this program are the same, eligibility requirements contained in the Military and Veterans Code are different from the eligibility requirements contained in the Education Code.

It is important for you to understand the different eligibility requirements as a dependent may qualify via one of the above Codes, but not the other.

To simplify matters, when referring to the provisions of the Military and Veterans Code, we will use the term Plan A. When referring to the provisions of the Education Code, we will use the term Plan B and D. When referring to benefits provided to members of the California National Guard, the term Plan C will be used.

Plan “A”

Who May Qualify?

- (1) The CHILD of a wartime veteran who is totally disabled due to service-connected disabilities, or whose death was officially rated as service-connected. The child must be over 14 years old and under 27 years old, unless the child is a veteran, and then the age limit is extended to age 30,

OR

- (2) The SPOUSE or Registered Domestic Partner (RDP) of a wartime veteran who has been rated as service-connected totally disabled. Note that there are no age limit restrictions,

OR

- (3) The unmarried SURVIVING SPOUSE or RDP of a wartime veteran whose death has been rated as service-connected. Note that there are no age limit restrictions,

OR

- (4) ANY DEPENDENT of any veteran who has been declared missing in action, captured in the line of duty by hostile forces, or forcibly detained or interned in the line of duty by a foreign government or power.

Specifics of Plan A:

- (a) Wartime service required (except for #4 above). The veteran must have served at least one day of active duty during a period of war as declared by the U.S. Congress, or during any time in which the veteran was awarded a campaign or expeditionary medal.
- (b) Specific age requirements must be met for an otherwise eligible child.
- (c) Concurrent receipt of benefits under Plan A and United States Department of Veterans Affairs (USDVA) Chapter 35 benefits is prohibited. In order to receive benefits under Plan A, a dependent must sign an “election” statement acknowledging this fact.
- (d) There are no income restrictions under this plan.
- (e) The event which caused basic entitlement to benefits, (i.e., the date the veterans died of service-connected causes or the date the USDVA rated the veteran as totally disabled as a result of service-connected disabilities), must have occurred prior to the CHILD’S 21st birthday.

Applicable Statutes:

Military and Veterans Code §890-899 and §980.

Plan “B”

Who May Qualify?

A child of a veteran who has a service-connected disability, or had a service-connected disability at the time of death, or died of service-related causes. The child’s “annual income”, which includes the child’s adjusted gross income, plus the value of support provided by a parent, may not exceed the “annual income limit”.

Specifics of Plan B:

- (a) Wartime service not required.
- (b) No specific age requirements.
- (c) No prohibition against concurrent receipt of fee waiver benefits and USDVA Chapter 35 benefits.
- (d) Children are the only dependents eligible under this Plan.
- (e) Current academic year entitlement is based upon the previous calendar year’s “annual income”.

Applicable Statutes:

Education Code §66025.3

Plan “C”

Who May Qualify?

Any dependent, or surviving spouse or RDP who has not remarried, of any member of the California National Guard, who in the line of duty, and while in the active service of the state, was killed, died of a disability resulting from an event that occurred while in active service to the state, or is permanently disabled as a result of an event that occurred while in the service to the state. “Active service of this state”, for the purpose of this subdivision, means a member of the California National Guard activated pursuant to Section 146 of the Military and Veterans Code.

Specifics of Plan C:

- (a) Guard member’s death or permanent disability must have occurred while in the active service of the state. You must have a copy of orders stating that the activation was under Military and Veterans Code section 146, not section 143.
- (b) This program applies only to dependents, surviving spouses or RDPs of members of the California National Guard.

Applicable Statutes:

Education Code §66025.3 (a) (3)

Plan “D”

Who May Qualify?

1. Medal of Honor recipients
2. The child of a Medal of Honor recipient.
3. Specified dependents of a RDP (see definitions).

Specifics of Plan D:

- (a) Benefits under this program are limited to undergraduate studies only.
- (b) Age, income, and residency requirements must be met for a child.
- (c) Spouses, RDPs, surviving spouses or RDPs are not eligible under this program.
- (d) There are no prohibitions against receiving concurrent USDVA Chapter 35 benefits.

NOTE:

- 1) If you receive an application under this plan, try first to establish entitlement to benefits under Plan A or B, as their provisions are less restrictive.
- 2) If you receive an application under this plan and cannot grant benefits under Plan A,B, or C forward the application package to:

Veterans Services Division
California Department of Veterans Affairs
1227 ‘O’ Street
Sacramento, CA 95814

Applicable Statutes:

Education Code §66025 (a) (4)

REQUIREMENTS AND DEFINITIONS

Unless specifically described otherwise, definitions of terms not listed below, should be obtained from the Military and Veterans or Education Codes, or from Title 38, U.S. Code, or the Code of Federal Regulations (CFR's).

ACADEMIC YEAR

An "Academic Year" (AY) shall encompass 365 days, shall commence on the first day, and shall end on the last day of the Academic Year in accordance with the individual school's calendar. Note: The start of the AY may vary from campus to campus.

ANNUAL INCOME

Annual income for the purposes of Plan B, shall be the amount of income reported to the Internal Revenue Service (IRS) or Franchise Tax Board (FTB) as "Adjusted Gross Income" (AGI) plus, the monetary value of support provided by a parent, from the period January 1st through December 31st of the preceding calendar year (i.e., if a student is applying for benefits for AY 2011-2012, the total amount of AGI and value of support from tax year 2010 will be used in determining eligibility.) Per Education Code Section 66025.3(c), the student's AGI and value of support cannot exceed the annual income limit as published by CDVA.

ANNUAL INCOME LIMIT

In accordance with the California Education Code the "national poverty level" for a "single person under age 65," as published by the United States Census Bureau, shall be the annual income limit for the upcoming academic year. CDVA will issue a bulletin to announce the established level for each academic year.

NOTE: The Census Bureau may adjust the poverty level several times per year; however, the Fee Waiver income limit is set just once year and does not change for subsequent Census Bureau adjustments.

APPEALS/APPELLATE AUTHORITY

Appeals of denied benefits must be filed with the Deputy Secretary, Veterans Services Division, 1227 'O' Street, Sacramento, California 95814. Appeals must be in writing, stating the reasons for appealing the denial of benefits, and filed within 90 days of the date on the denial letter. The appeal should include evidence, and/or statements that support the belief that the denial of benefits was in error. Appeals should include a copy of the denial letter and a telephone number where the student may be reached during normal business hours. Should the appeal be denied, the second appellate level is with the California Veterans Board, 1227 'O' Street, Sacramento, California 95814. Appellate determinations will be shared with the appropriate County Veteran Service Office (CVSO.)

APPLICATION

All applications for benefits under this program shall be on the most recent CDVA, Veterans Services Form "DVS 40". DVS 40 applications received by Facsimile (FAX)

are acceptable. The application may be downloaded at www.cdva.ca.gov under Veteran Services, Veterans Dependents Educational Assistance, or at www.cacvso.org.

APPROVAL AUTHORITY

CDVA, Veterans Services Division, or its appointees, including any CVSO who maintains state certification qualifications, may determine eligibility to receive benefits under this program. In cases where an award or denial of benefits is generated through a CVSO, notices of such awards or denials of benefits shall be signed by the appointed County Veterans Service Officer. In limited circumstances, with a delegation letter on file, senior staff may sign “for the CVSO,” but only in the CVSO signature block. These requirements also apply to “Copies” of award or denial letters.

APPROVAL PERIOD

Approval for benefits under this program shall be granted on an Academic Year basis. There shall be no partial year grants of benefits. Applicants must re-apply each year to maintain entitlement. Approvals may be granted only for the current AY, or the immediate upcoming AY (See NOTE below). No approvals under Plan B shall be granted until appropriate income information is available (i.e., a grant of benefits for the 2010-2011 AY cannot be made until 2009 income is verified).

ATTAINED ELIGIBILITY

A dependent child may be eligible for benefits under Plan A, only if the event which created basic entitlement, such as death in service or the date of the USDVA grant of service-connected total disability benefits occurred prior to the child’s 21st birthday.

CHILD

For the purpose of this program, a child shall be the veteran's: (1) natural child, (2) step child, (3) adopted child, or (4) a person for whom a veteran has obtained a court order granting “Care Custody and Control.” A divorce or termination of a relationship may affect eligibility; a former step child may be eligible only if the veteran retains custody. Supporting documents that verify the above must be of record. A child’s marital status alone will not be a bar to receiving benefits under Plan B.

DEATH OF VETERAN, EFFECT ON DEPENDENTS ENTITLEMENT

The death of a service-connected disabled veteran shall have NO adverse effect on a dependents eligibility to receive benefits under this program.

EFFECTIVE DATE OF BENEFITS

The earliest date that entitlement to benefits under this program can be established is the beginning date of the Academic Year in which the application for benefits was received by the CDVA or its appointees.

NOTE: An exception to the above, relates to claims received under the provisions of Military & Veterans Code Section 890.3. The law permits retroactive fee waiver benefits from the school system when a claim for fee waiver benefits is denied, **due solely** to the fact that the claimant in question has a claim pending with the USDVA for service-connected disability or death benefits, but has yet to be awarded such benefits. In these cases, once the USDVA awards service connected disability or Dependent Indemnity Compensation (DIC) benefits, the earliest effective date of fee waiver benefits, will be the date the original application (DVS-40) was received. Benefits shall be awarded for

each Academic Year in which an application was received. Input into the standard denial format, the attached new language. (Denial reason #7.)

FEES WAIVED

Education Code Section 66025.3 prohibits any campus of the University of California, California State University, or California Community College from charging “mandatory system wide tuition or fees, including enrollment fees, registration fees, differential fees, or incidental fees”. Note: By statute, CDVA determines benefits eligibility. By statute, each school system waives “fees”, based upon their own definitions and written guidelines. Any “disagreements” over what “fees” should be waived, should be resolved at the lowest possible level-between the student and school involved. Nothing shall prevent colleges from charging non-resident fees.

NATIONAL POVERTY LEVEL

For the purposes of Plan B, the National Poverty Level is defined as the poverty threshold for a single person, under the age of 65, according to the U.S. Census Bureau. CDVA will annually publish the annual income limit based upon the poverty threshold dollar amount.

NOTE: see “ANNUAL INCOME LIMIT” in this section.

PERIOD OF WAR

For the purpose of Plan A, a veteran must have served during a period of war as declared by the U.S. Congress, or in a campaign or expedition in which a medal has been authorized by the U.S. Government.

REGISTERED DOMESTIC PARTNER (RDP)

A copy of the California Certificate of Registered Domestic Partnership issued by the Secretary of State, naming the partners and dependents, must be part of the eligibility verification process, and maintained in your files.

RESIDENCY DETERMINATIONS

Students must meet the residency requirements of the school the will attend. The waiver of tuition or fees under this section shall apply only to a person who is determined to be a resident of California pursuant to Education Code Chapter 1 (commencing with Section 68000) of Part 41 .

Colleges make the final residence determinations.

REPONSIBILITIES AND LIABILITIES OF THOSE PROCESSING BENEFITS

Financial and Workload Unit liability shall exist in this program when the information provided by an applicant clearly and unmistakably rules out entitlement for the benefit, yet the benefit is granted. Examples: there is no service-connected disability/death, income and value of support exceeds the National Poverty Level, there is no evidence of dependency. Counties found to have granted an invalid benefit will loose the Workload Unit value and be liable to reimburse the school.

SERVICE-CONNECTED DISABILITY/DEATH

A *permanent* disability, or death, which has been formally rated by the USDVA or a military service department, Physical Evaluation or Correction Board as service-

connected, related or incurred while in the line of duty. Any disabilities rated “for treatment or examination purposes only” do *NOT* qualify.

SPOUSE OR REGISTERED DOMESTIC PARTNER

For the purposes of Plan A, the person married to, or a RDP of a veteran who is totally disabled as a result of service-connected disabilities. Note that effective January 1, 1997, all age restrictions for a spouse have been removed. Supporting documents are required, i.e.; California Certificate of Domestic Partnership.

SURVIVING SPOUSE OR REGISTERED DOMESTIC PARTNER

For the purposes of Plan A, the unmarried person who was married to, or a RDP of a veteran whose cause of death was officially rated or adjudicated as “service-connected.” Supporting documents are required as stated above.

TOTALLY DISABLED

For the purposes of Plan A, a veteran that is rated 100% disabled for service-connected compensation purposes, or in receipt of the 100% compensation rate due to “unemployability” by the USDVA, or rated by the military service department as being 100% or totally disabled due to disabilities incurred while in the line of duty. Temporary ratings, i.e., 38CFR 4.28, 4.29 and 4.30, shall not in themselves be a basis for granting benefits under Plan A. It is permissible to grant benefits under Plan A for veterans rated under Code 18 (unemployability) on a year-to-year basis.

VALUE OF SUPPORT

For the purposes of Plan B, the Value of Support shall be the total monetary amount, as “certified under penalty of perjury” by a parent, provided to a child, during the preceding annual year. Examples of “Value of Support” may include college housing assistance, transportation, medical and dental care, school books and supplies. IRS Publication 501 has further definitions that may be helpful, but the IRS worksheet is not a requirement and not all of the IRS definitions translate directly.

Note: If \$0.0 is claimed an explanation must be attached.

VERIFICATION OF DEPENDENCY

Copies of all dependency documentation must be kept with your fee waiver files.

In the vast majority of cases, establishing dependency will not be a problem as the dependents last name will be same as the veterans and listed accordingly in USDVA and local office records. In those cases where the last name differs, and USDVA or local records do not establish dependency, develop accordingly: (1) if a stepchild, obtain a copy of the marriage license and child’s birth certificate, (2) if an adopted child, a copy of the adoption order will suffice. You may wish to “identify” a student by viewing a drivers’ license or another valid photo I.D.

VERIFICATION OF INCOME (PLAN B)

Under Plan B, a students Adjusted Gross Income (AGI) shall be verified with a SIGNED copy of the return filed with the IRS (1040, 1040EZ, TeleFile) or similar FTB form, or if a copy is not available, a *statement* from the IRS or FTB must be provided verifying AGI or the fact that there is no record of a return being filed. IRS and FTB *statements* may be obtained by visiting a local IRS or FTB office, or by calling the IRS at 1-800-829-1040,

or the FTB at 1-800-852-5711. IRS Form 4506-T may be used, a copy is attached. Tax/income verification letters must be dated after April 15th.

Forms W-2 will not be accepted as proof of AGI, however, when a student is married and a joint tax return was submitted you should use the W-2's to determine individual share of the joint income.

In cases where the DVS 40 reports \$0 AGI, and \$0 Value of Support, a certified statement (use of VA Form 21-4138 is permissible) must be completed which states how the student can afford to attend school.

Do not accept a Form 1040 or FTB 540 that reports \$0.0 income. This does not substitute for the verification of non-filing.

VERIFICATION OF SERVICE-CONNECTED DISABILITY or DEATH

Verification of service-connected disability or death shall be of record in all cases. Verification shall consist of at least one of the following: A copy of a USDVA or Department of Defense award letter (COLA (cost of living) notifications are acceptable) or, a copy of a USDVA Patient Data Card which reflects service-connection, or a DD214 reflecting separation due to disabilities (i.e., severance pay, Temporary Disability Retirement List or Permanent Disability Retirement List, or proof of a communication with USDVA or CDVA staff which includes: the date, the USDVA Regional Office contacted, the USDVA employee or CDVA claims representative's name, and the service-connected data obtained.

CVSO Official Letterhead

COLLEGE FEE WAIVER AUTHORIZATION (PLAN A)
DEPENDENTS OF SERVICE-CONNECTED
DISABLED OR DECEASED VETERANS.

ACADEMIC YEAR: 2011-2012

MICHAEL STUDENT
111 ACADEMIC WAY
COLLEGETOWN, CALIFORNIA 90210

Dear Student:

Congratulations! You have been found eligible to receive College Fee Waiver benefits under the provisions of the California Military and Veterans Code, Sections 890-980. These benefits are provided to you by a grateful State of California to recognize the sacrifices made by a veteran while serving our country with honor.

Having been found eligible for benefits means that you will not be required to pay any mandatory system wide enrollment or registration fees, while attending either: (1) a California Community College, (2) a campus of the California State University (Cal State) system, or (3) a campus of the University of California (UC) system. Many colleges and universities have campus-based and extension fees which may not be waived. Contact staff at your school's Veterans Affairs Office for additional information and provide them with a copy of this letter.

Please note the following:

- (1) This authorization is valid only for the Academic Year listed above.
- (2) You must re-establish eligibility for each subsequent Academic Year you plan on attending school.
- (3) You must meet California residency requirements of your school in order to receive these benefits.
- (4) You may not receive benefits under this program, and U.S. Department of Veterans Affairs Chapter 35 educational benefits, during the same period.

I wish you success in achieving your educational goals and if you need additional information concerning this program or other veterans benefits, please contact me at the above address.

Sincerely,

CVSO

cc: school campus

CVSO Official Letterhead

COLLEGE FEE WAIVER AUTHORIZATION (PLAN B)
DEPENDENTS OF SERVICE-CONNECTED
DISABLED OR DECEASED VETERANS.

ACADEMIC YEAR: 2011-2012

MICHAEL STUDENT
111 ACADEMIC WAY
COLLEGETOWN, CALIFORNIA 90210

Dear Student:

Congratulations! You have been found eligible to receive College Fee Waiver benefits under the provisions of the California Education Code, Section 66025. These benefits are provided to you by a grateful State of California to recognize the sacrifices made by a veteran while serving our country with honor.

Having been found eligible for benefits means that you will not be required to pay any mandatory system wide enrollment or registration fees, while attending either: (1) a California Community College, (2) a campus of the California State University (Cal State) system, or (3) a campus of the University of California (UC) system. Many colleges and universities have campus-based and extension fees which may not be waived. Contact staff at your school's Veterans Affairs Office for additional information and provide them with a copy of this letter.

Please note the following:

- (1) This authorization is valid only for the Academic Year listed above.
- (2) You must re-establish eligibility for each subsequent Academic Year you plan on attending school.
- (3) You must meet California residency requirements of your school in order to receive these benefits.

I wish you success in achieving your educational goals and if you need additional information concerning this program or other veteran's benefits, please contact me at the above address.

Sincerely,

CVSO

cc: school campus

REASONS FOR DENIAL BENEFITS

The following reasons for denial are reflective of the vast majority of appeals encountered. The applicable reason for denial shall be included, in the appropriate space on the denial letter to the applicant. Remember, if benefits must be denied, make sure you deny the benefit for the proper reason(s).

(1) CHILDS INCOME IS OVER THE LIMIT FOR PLAN B

State law, specifically the Education Code Section 66025, does not provide us the authority to grant fee waiver benefits if your AGI, plus the value of support provided by the parent, is over the annual income limit of (*input current annual income limit*) as published by the California Department of Veterans Affairs. In the future, should your AGI, plus the value of support provided by a parent, decrease to under the annual income limit, please feel free to re-apply.

(2) DEPENDENT IS IN RECEIPT OF CHAPTER 35 BENEFITS UNDER PLAN A, AND NOT ELIGIBLE UNDER PLAN B.

State law, specifically the Military and Veterans Code Sections 896.1, does not provide us the authority to grant fee waiver benefits while you are in receipt of United States Department of Veterans Affairs (USDVA) Chapter 35 benefits. Should your USDVA Chapter 35 benefits terminate, or if you choose to receive our California Dependents Fee Waiver Program benefits instead of USDVA Chapter 35 benefits, please feel free to re-apply.

(3) THE APPLICANT IS APPLYING AS A VETERAN, NOT AS A DEPENDENT.

State law, specifically the Military and Veterans Code, Sections 890 through 899, allows us to provide fee waiver benefits to certain DEPENDENTS AND SURVIVORS of service-connected disabled or deceased veterans. There are no provisions of this law that gives us the authority to provide Dependents Fee Waiver benefits in your situation.

(4) THE VETERAN OR VETERANS DEATH IS NOT SERVICE-CONNECTED

State law, specifically the Education Code Section 66025 and Military and Veterans Code Sections 890 through 899, does not provide us the authority to grant fee waiver benefits if the veteran in question does not have a service-connected disability, or did not die of service-connected causes.

(5) A DEPENDENT IS ATTENDING A PRIVATE COLLEGE/UNIVERSITY OR VOCATIONAL SCHOOL.

State law, specifically the Education Code Section 66025, does not provide us the authority to grant fee waiver benefits for attendance to *private* colleges, universities or vocational schools. Under the Dependents Fee Waiver Program, eligible dependents must attend a California Community College, California State University or a University of California campus. Should dependents decide to attend one of these schools, they should be encouraged to apply.

(6) A DEPENDENT IS ATTENDING AN OUT-OF-STATE INSTITUTION

State law, specifically the Education Code Section 66025, does not provide us the authority to grant fee waiver benefits for attendance in an educational institution outside of California. Under the Dependents Fee Waiver Program, eligible dependents must attend a California Community College, California State University or a University of California campus. Should dependents decide to attend one of these schools in California, they should be encouraged to apply.

(7) THE VETERAN OR VETERANS DEATH IS NOT SERVICE CONNECTED BUT A CLAIM FOR USDVA BENEFITS IS CURRENTLY PENDING.

State law, specifically the Education Code Section 66025 and the Military and Veterans Code Section 890 through 899, does not give us the authority to grant benefits if the veteran in question does not have a service-connected disability or did not die of service-connected causes. *However, under the provisions of the Military and Veterans Code Section 890.3, you may be eligible for retroactive benefits if; (1) you have a claim for service-connected disability or service-connected death benefits pending with the United States Department of Veterans Affairs (USDVA), and (2) in the future, the USDVA grants service-connected disability or death payments, and (3) you **immediately** bring to our attention proof that the USDVA has awarded service-connected disability or death benefits.*

(8) THE DEPENDENT IS APPLYING FOR RETROACTIVE BENEFITS

State law, specifically the Education Code, Section 66025, does not provide us with the authority to grant fee waiver benefits for prior academic years.

SAMPLE DENIAL LETTER

CVSO Letterhead

Date

MICHAEL STUDENT
111 ACADEMIC WAY
COLLEGE TOWN, CALIFORNIA 90210

Dear Student:

Thank you for applying for benefits under the College Fee Waiver Program for Veterans Dependents.

Based upon my review of information you provided, I must deny your application.

******* (PUT THE SPECIFIC REASON (S) FOR DENIAL IN THIS SPACE) *******

If you disagree with my decision, you may appeal to: Deputy Secretary, Veterans Services Division, 1227 'O' Street, Suite 101, Sacramento, California 95814. Please note that your appeal must be in writing, stating the reasons you feel benefits should be granted, and filed within 90 days of the date of this letter. Your appeal should include evidence, and/or statements that support your belief that my denial of benefits is in error. Be sure to include a copy of this letter and a telephone number where you can be reached during normal working hours.

Sincerely,

CVSO

ELECTION TO RECEIVE CDVA
COLLEGE FEE WAIVER BENEFITS

I understand that state law, specifically the Military and Veterans Code, Section 896.1, prohibits me from receiving State of California Department of Veterans Affairs (CDVA) Dependents Fee Waiver benefits under Plan A if I am in receipt of United States Department of Veterans Affairs (USDVA) Dependents Education (Chapter 35) benefits.

I understand that if I apply for and receive USDVA Chapter 35 benefits after being awarded CDVA Fee Waiver benefits under Plan A for the same period, my CDVA Fee Waiver benefits will be revoked retroactively, my school will be notified of actions taken, and that I shall be held financially responsible for any associated fees waived.

Understanding the above, I elect to receive CDVA Dependents Fee Waiver benefits under Plan A, and certify under the penalty of perjury, that I am not currently in receipt of USDVA Chapter 35 benefits.

_____/_____
Date Signed Signature